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Avi Sharma

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## WHO LEADS IN A G-ZERO WORLD? MULTI-NATIONALS, SUSTAINABLE DEVELOPMENT, AND CORPORATE SOCIAL RESPONSIBILITY IN A CHANGING GLOBAL ORDER

Avi Sharma<sup>†</sup>

*Abstract:* The UN Sustainable Development Goals (“SDGs”) aim to create a more peaceful, just, and environmentally sustainable global community. The SDGs target seventeen areas that demand immediate action by the international community, including the eradication of poverty, gender equality, climate change mitigation, and resilience building. Unfortunately, the world’s most powerful nation-state actors are unlikely to make the costly investments required to achieve the goals laid out in this ambitious UN document. In fact, this article argues that nation-state actors have powerful disincentives to play a leadership role in advancing the SDGs. The question then becomes: if nation-states are unable or unwilling to make these investments, who will?

This article shows that Multinational Corporations (“MNCs”) have a unique capacity to address critical global challenges—not because they are more efficient, agile, or altruistic than other kinds of institutional actors. Rather, MNCs have the potential to make an impact on issues from gender equality to sustainable development because they have a different incentive structure than nation-state actors. Unlike nation-states that answer to constituencies that are fundamentally parochial in their outlook, MNCs answer to stakeholders who are disposed toward more—rather than less—global engagement. More specifically, this article analyzes the incentives that MNCs have to invest in the SDGs. It does not attempt to resolve political and ethical questions raised by the privatization of the intergovernmental responsibility to protect human and natural resources on a global scale. It does argue that in the face of critical global challenges, this private sector intervention is preferable to government inaction.

### I. INTRODUCTION

In the coming century, the international community faces extraordinary challenges, ranging from unprecedented demographic shifts<sup>1</sup> to a warming planet.<sup>2</sup> In the face of truly global challenges, the need for international collaboration has never been greater. Nation-state actors have historically played a core role in addressing these shared challenges, and particularly when it comes to delivering humanitarian assistance in crisis situations, members of the Organisation for

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<sup>†</sup> Sharma is a researcher with the Berlin-based Center for Cultural Diplomacy Studies. He is currently developing a project that explores the social and political consequences of climate change, focusing in particular on the Trans-Atlantic response to climate driven migration and other humanitarian crises. Sharma has a Ph.D. in European and Global History from the University of Chicago.

<sup>1</sup> Susana Adamo, *Environmentally Induced Population Displacements*, IHDP 13-21 (2009), available at <http://www.ciesin.columbia.edu/documents/envirioninduced-s.adamo-IHDPupdate-2009.pdf>.

<sup>2</sup> INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE, FIFTH ASSESSMENT REPORT (2014), available at <http://www.ipcc.ch/>.

Economic Co-operation and Development (“OECD”) continue to serve the role of first responders.<sup>3</sup> But when it comes to slow-moving crises (like climate adaptation and change mitigation), challenges that are potentially unpopular with domestic audiences (e.g., hosting refugees), or that require durable investment (e.g., education, public health, and physical infrastructure), the world’s most powerful nation-state actors are consistently failing to address our most pressing 21st century problems.

Germany, for example, may have played a leadership role in efforts to manage the ongoing Eurozone crisis, but it has failed to mobilize EU partners to contain conflicts in Central and North Africa<sup>4</sup> and the Middle East.<sup>5</sup> In the United States, leaders on both sides of the political fence seem committed to a less-rather-than-more-engaged foreign policy. And while China is clearly in a position to take a larger role in addressing critical global challenges, the Central Committee of the Chinese Communist Party (“CCCCP”) has repeatedly signaled that international affairs are subordinate to domestic considerations.<sup>6</sup> Examples from the South China Seas, the Democratic Republic of Congo, Syria, North Korea, and Ukraine show that existing mechanisms for managing global crises are inadequate.<sup>7</sup> This is particularly alarming in the face of climate change, which scientific observers agree demands immediate and comprehensive action.<sup>8</sup> The trend towards

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<sup>3</sup> A long-standing body of international obligations suggests that, in the near term, this will continue to be true. See ORG. FOR ECON. CO-OPERATION AND DEV. (OECD), GUIDELINES ON DISASTER MITIGATION (1994), available at <http://www.oecd.org/dataoecd/37/7/1887740.pdf>; EUROPEAN COMMISSION, EUROPEAN CONSENSUS ON HUMANITARIAN AID (2006), available at [http://ec.europa.eu/echo/files/media/publications/consensus\\_en.pdf](http://ec.europa.eu/echo/files/media/publications/consensus_en.pdf) (citing EU member obligations to provide “adequate and effective aid” to “man-made and natural disasters,” including those precipitated by climate change).

<sup>4</sup> Press Release, Doctors Without Borders, International Efforts to Protect Civilians in Central African Republic Failing to Stop Slaughter (Feb. 18, 2014), available at: <http://www.doctorswithoutborders.org/news-stories/press-release/international-efforts-protect-civilians-central-african-republic-failing>.

<sup>5</sup> *Germany Proceeds with Caution in Syria Conflict*, DEUTSCHE WELLE (Aug. 28, 2013), <http://www.dw.de/germany-proceeds-with-caution-in-syria-policy/a-17050654> (last visited Mar. 30, 2015).

<sup>6</sup> Fareed Zakaria is just one of those who argue that rising powers including Brazil, Russia, India China, Turkey, and South Africa (BRICs) will play a more important role in global affairs. But even a cursory comparison between G-7 and G-20 Foreign Aid budgets shows that “rising powers” cannot be expected to fill the vacuum if Trans-Atlantic Partners retreat from their existing obligations. In 2011, for example, combined Foreign Aid Spending for Brazil, Russia, India, and China totaled \$4.2 billion. See Pete Troilo, *Despite Tempered Outlook, BRIC Countries Stay the Course on Foreign Aid*, DEVEX.COM (Nov. 25, 2013), <https://www.devex.com/news/despite-tempered-outlook-bric-countries-stay-the-course-on-foreign-aid-82370>. This is just 12% of the US Foreign Aid Budget for the same year. See *U.S. Foreign Aid Since 1977*, N.Y. TIMES (Oct. 3, 2011), [http://www.nytimes.com/interactive/2011/10/04/us/politics/us-foreign-aid-since-1977.html?\\_r=1&](http://www.nytimes.com/interactive/2011/10/04/us/politics/us-foreign-aid-since-1977.html?_r=1&).

<sup>7</sup> In recent years, the UN Security Council has come under particular criticism. See *What Criticism has the Security Council Faced?*, COUNCIL ON FOREIGN RELATIONS, <http://www.cfr.org/international-organizations-and-alliances/un-security-council/p31649>.

<sup>8</sup> The 2009 Copenhagen Accord called on developed countries to invest \$100 billion per year to help developing countries mitigate climate change, starting in 2020, and some estimates range much higher. Alex Bowen et al., *A Macroeconomic Perspective on Climate Change Mitigation: Meeting the Finance Challenge* 10 (Ctr. for Climate Change Econ. & Pol’y, Working Paper No. 142, 2013), available at <http://www.lse.ac.uk/GranthamInstitute/wp-content/uploads/2014/02/WP122-Macroeconomic-perspective-on->

disengagement has only intensified since the onset of the “Great Recession” in 2008.<sup>9</sup> Ian Bremmer calls this new alignment the G-Zero: it is a world without leadership.<sup>10</sup>

Given the peculiarity of our historical moment, the retreat from international obligations should not be particularly surprising. Faced with a changing global balance of power, dominant and rising nations are preoccupied with promises made to domestic audiences.<sup>11</sup> This means that, while the imperative to invest in public health infrastructure, educational empowerment, gender equality, and climate initiatives in distant lands may be dire, calls at home for more jobs, a balanced budget, or a better funded social safety net (or deficit reduction) take primacy.<sup>12</sup> Put simply, politicians—elected or otherwise—are more concerned with national interests than international obligations.<sup>13</sup> The developing world, where billions of citizens continue to live on the margins of survival, will most keenly feel the effects of this retreat from international obligations.<sup>14</sup> All of this raises doubts about whether, and to what extent, nation-state actors can be counted on to address our most pressing global challenges. If not the nation-state, then who?<sup>15</sup>

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climate-change-mitigation.pdf. The United Nations Environment Programme (UNEP) estimates that public financing for adaptation reached \$23-26 billion in the fiscal year 2012-13, noting that this number will rise to \$ 100 billion by 2020. UNEP warns of “a significant funding gap unless new and additional finance for adaptation is made available.” See UNITED NATIONS, UNEP REPORT: DEVELOPING COUNTRIES’ ADAPTATION COSTS LIKELY TO FAR SURPASS PREVIOUS ESTIMATES (Dec. 5, 2014), available at <http://www.un.org/climatechange/blog/2014/12/unep-report-developing-countries-adaptation-costs-likely-to-far-surpass-previous-estimates/>.

<sup>9</sup> See MICHAEL MANDELBAUM, *THE FRUGAL SUPERPOWER: AMERICA’S GLOBAL LEADERSHIP IN A CASH-STRAPPED ERA* (2010).

<sup>10</sup> See IAN BREMMER, *EVERY NATION FOR ITSELF: WHAT HAPPENS WHEN NO ONE LEADS THE WORLD* (2012). For a different view, which stresses the importance of “mini-lateral” agreements, see Stewart Patrick, *The Unruly World: The Case for Good Enough Global Governance*, FOREIGN AFFAIRS (Jan./Feb. 2014), available at <https://www.foreignaffairs.com/articles/2013-12-06/unruly-world>.

<sup>11</sup> See MARK MAZOWER, *GOVERNING THE WORLD: THE HISTORY OF AN IDEA* (2012).

<sup>12</sup> This is as true of one party states like the PRC as it is of Western-style democracies. Many will object to this parallel, pointing to the use of police and military powers to fabricate consent in much of the world. But if one looks at populist policies in Venezuela, the CPC’s concern with civil unrest in the provinces, or the effects of popular uprisings in Egypt, Turkey, Syria, or Ukraine, it should be clear that even authoritarian regimes must be wary of domestic constituencies. Nafeez Ahmed, *Global Riot Epidemic due to Demise of Cheap Fossil Fuels*, THE GUARDIAN (Feb. 28, 2014), <http://www.theguardian.com/environment/earth-insight/2014/feb/28/global-riots-protests-end-cheap-fossil-fuels-ukraine-venezuela>.

<sup>13</sup> See, e.g., DETLEV PEUKERT, *THE WEIMAR REPUBLIC: THE CRISIS OF CLASSICAL MODERNITY* (1992) (extreme example); Miles Kahler, *Rising Powers and Global Governance: Negotiating Change in a Resilient Status Quo*, 89 INT’L AFF. 711 (2013) (recent discussion).

<sup>14</sup> The World Bank estimates that more than 1 billion people live in “extreme poverty,” with average earnings at or below USD \$1.25 per day. The same report projected that more than 2 billion earn USD \$2 a day, which represents “the average poverty line in developing countries.” WORLD BANK, *POVERTY OVERVIEW* (last updated Apr. 6, 2015), <http://www.worldbank.org/en/topic/poverty/overview>.

<sup>15</sup> Faced with our most entrenched global challenges—reducing carbon emissions, and improving education, public health, and economic opportunities in the developing world—even conservative observers have indicated that investment is on the decline, and strategic vision is lacking. See WORLD BANK, *CLIMATE CHANGE REPORT WARNS*

Many believe that Inter-Governmental Organizations (“IGOs”) should take the lead in protecting the world’s most vulnerable citizens.<sup>16</sup> IGOs have long played a key part in protecting our global commons,<sup>17</sup> and the United Nations Sustainable Development Goals (“UN SDGs”) are only the most recent in a long list of initiatives<sup>18</sup> to build a more “just, equitable and inclusive”<sup>19</sup> world. So far, more than 1.3 million stakeholders have participated in negotiations identifying the goals, and have agreed on seventeen “Universal Principles” including poverty eradication, women’s empowerment, sustainable industrialization, and climate change mitigation. The UN SDGs outcome document, which details the results of this collaboration between diverse stakeholders, is an achievement in its own right.<sup>20</sup>

But a recent High Level Political Forum on Sustainable Development Goals suggests that agreement on the principles is likely to be the easy part. While member states agreed on the Universal Principles expressed in the SDGs, they “differed” in their views on how to advance the SDGs, and “what a transformed world should look like.”<sup>21</sup> Given the political, economic, religious, and cultural differences within the General Assembly, agreeing to the details of the Post-2015 Agenda will be extraordinarily difficult. However, funding the Post-2015 agenda

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DRAMATICALLY WARMER WORLD THIS CENTURY (Nov. 18, 2012), <http://www.worldbank.org/en/news/feature/2012/11/18/Climate-change-report-warns-dramatically-warmer-world-this-century>.

<sup>16</sup> See generally Gustavo Ferroni, *Corporate Social Responsibility and Rio+20: Time to Leap Forward!*, DIALOGUE ON A CONVENTION FOR CORPORATE SOCIAL RESPONSIBILITY AND ACCOUNTABILITY (CSRA) (2012), available at [http://www.uncsd2012.org/content/documents/328Convention\\_CSRA\\_Discussion\\_Paper.pdf](http://www.uncsd2012.org/content/documents/328Convention_CSRA_Discussion_Paper.pdf).

<sup>17</sup> The United Nations Environment Programme (UNEP) uses a narrower definition. “The ‘Global Commons’ refers to resource domains or areas that lie outside of the political reach of any one nation-state. Thus international law identifies four global commons namely: the High Seas; the Atmosphere; Antarctica; and, Outer Space.” UNITED NATIONS ENVIRONMENT PROGRAMME, DIVISION OF ENVIRONMENTAL LAW AND CONVENTIONS, IEG OF THE GLOBAL COMMONS BACKGROUND, <http://www.unep.org/delc/GlobalCommons/tabid/54404/> (last visited May 16, 2015); see KEMAL BASLAR, *THE CONCEPT OF THE COMMON HERITAGE OF MANKIND IN INTERNATIONAL LAW* (1998) (providing a broader definition).

<sup>18</sup> SDG negotiations are just the last iteration of a process reaching back more than 20 years. Earlier avatars of the SDGs include Agenda 21 (1992), the Global Compact (1999), the Millennium Development Goals (MDGs) (2000), Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights (2003), and Rio+20 (2012). See also UNITED NATIONS GENERAL ASSEMBLY, SYNTHESIS REPORT ON OF THE SECRETARY-GENERAL ON THE POST-2015 SUSTAINABLE DEVELOPMENT AGENDA (Dec. 4, 2014), [http://www.un.org/ga/search/view\\_doc.asp?symbol=A/69/700&Lang=E](http://www.un.org/ga/search/view_doc.asp?symbol=A/69/700&Lang=E) (paying particular attention to items 26 and 27).

<sup>19</sup> UNITED NATIONS, INTRODUCTION AND PROPOSED GOALS AND TARGETS ON SUSTAINABLE DEVELOPMENT FOR THE POST-2015 DEVELOPMENT AGENDA 1 (June 3, 2014), available at <https://www.worldwewant2015.org/node/442161>.

<sup>20</sup> UNITED NATIONS, OPEN WORKING GROUP PROPOSAL FOR SUSTAINABLE DEVELOPMENT GOALS (2014), available at <https://sustainabledevelopment.un.org/content/documents/1579SDGs%20Proposal.pdf>.

<sup>21</sup> Summary: *Second Round of Intergovernmental Negotiations On Post-2015*, SUSTAINABLE DEVELOPMENT 2015, <http://www.sustainabledevelopment2015.org/index.php/news/284-news-sdgs/1637-summary-second-round-of-intergovernmental-negotiations-on-post-2015> (last visited May 16, 2015).

is likely to be even more challenging.<sup>22</sup> The Special Representative on Post-2015 Development Planning estimates an annual price tag of USD 5–7 trillion for infrastructure projects alone,<sup>23</sup> which amounts to between 6–9 percent of Global GDP.<sup>24</sup> For those who expect IGOs to take the lead in realizing the SDGs, it is worth remembering that UN member states regularly fail to reach even the threshold of 0.7 percent of GDP prescribed for Official Development Assistance (“ODA”) by successive UN Resolutions.<sup>25</sup> Achieving a workable “post-2015 Agenda” will require UN member-states to make costly commitments that are often unpopular with domestic audiences.<sup>26</sup> The question remains, who will lead in a G-Zero world?

This article argues that Multi-National Corporations (“MNCs”) have a unique capacity to address critical global challenges precisely because of the qualities that distinguish MNCs from nation-state actors and IGOs. Because MNCs are, by definition, simultaneously local and global, and because their constituencies include consumers on the ground and shareholders from all corners of the world, MNCs have incentives to invest in the SDGs that nation-state actors do not have.<sup>27</sup> By highlighting the different incentives that govern MNCs and sovereign states, this article will explain why MNCs may be a better bet than nations when it comes to addressing complex and enduring problems like climate change and poverty eradication.

MNCs can and should play a role in advancing core global values articulated in the SDGs, but it is by no means certain—nor even particularly likely—that they will do so. As critics point out, MNCs have historically acted, and continue to act, in ways that are profoundly destructive for local communities, the world’s most vulnerable citizens, and the environment.<sup>28</sup> The exploitation of natural resources is just the most glaring example of this problem. British consulting firm Trucost reported to the United Nations that just 3,000 corporations cause USD 2.15 trillion

<sup>22</sup> *Bid Begins to Find Trillions for UN’s Post 2015 Goals*, UN NEWS AND MEDIA (Mar. 24, 2015), [http://www.unmultimedia.org/radio/english/2015/03/bid-begins-to-find-trillions-for-uns-post-2015-goals/#.VRL5e\\_zF\\_Nh](http://www.unmultimedia.org/radio/english/2015/03/bid-begins-to-find-trillions-for-uns-post-2015-goals/#.VRL5e_zF_Nh) (last visited May 16, 2015).

<sup>23</sup> *Id.*

<sup>24</sup> WORLD BANK, WORLD DEV. INDICATORS DATABASE, GROSS DOMESTIC PRODUCT 2013 (Apr. 14, 2014), available at <http://databank.worldbank.org/data/download/GDP.pdf>.

<sup>25</sup> ICESDF, DEVELOPMENT INITIATIVES: SUBMISSION TO INTERGOVERNMENTAL COMMITTEE OF EXPERTS ON SUSTAINABLE DEVELOPMENT FINANCING § 4.1 (2014), available at [http://devinit.org/wpcontent/uploads/2014/05/D-development-Initiatives\\_ICESDF-Submission-May-2014\\_Final.pdf](http://devinit.org/wpcontent/uploads/2014/05/D-development-Initiatives_ICESDF-Submission-May-2014_Final.pdf).

<sup>26</sup> *Unsustainable Goals*, ECONOMIST (Mar. 28, 2015), <http://www.economist.com/news/international/21647307-2015-will-be-big-year-global-governance-perhaps-too-big-unsustainable-goals>.

<sup>27</sup> Dima Jimali, *The CSR of MNC Subsidiaries in Developing Countries: Global, Local, Substantive or Diluted*, 93 J. BUS. ETHICS (2010) 181, 181–200.

<sup>28</sup> The literature on this is voluminous. See, e.g., *Behind the Mask: The Real Face of CSR*, CHRISTIAN AID (2000), [https://www.st-andrews.ac.uk/media/csear/app2practice-docs/CSEAR\\_behind-the-mask.pdf](https://www.st-andrews.ac.uk/media/csear/app2practice-docs/CSEAR_behind-the-mask.pdf).



in environmental damage every year.<sup>29</sup> There is also no guarantee that MNCs that invest in sustainable development are, on balance, contributing to desirable goals like economic empowerment and reduced carbon emissions. Energy companies, for example, may substantially invest in educational initiatives, public health campaigns, or environmental sustainability programs, but these efforts are dwarfed by harm they do to the environment and the livelihoods of local people.<sup>30</sup>

For all the justifiable concern about MNCs playing the role of “change-agents,” this new political-economic configuration has become ubiquitous. MNCs spend billions of dollars each year on Corporate Social Responsibility (“CSR”) and philanthropic initiatives, and NGOs working on environmental sustainability, economic empowerment, education, and gender equality all rely heavily on corporate sponsors.<sup>31</sup> Even traditionally extractive, high-impact industries are working hard to present themselves as good global citizens.<sup>32</sup>

Corporate Social Responsibility is becoming a byword for MNCs, and voices from the European Commission and World Bank to Human Rights Watch and Amnesty International agree that CSR can help build a more “just, equitable, and inclusive” future.<sup>33</sup> In a geopolitical moment where the most powerful nation-state actors have political and economic disincentives to collaborate, perhaps MNCs offer some grounds for hope.<sup>34</sup> And there is simply no time to waste on any number of issues, from reversing carbon emissions and building more resilient communities, to empowering women and planning for sustainable growth.<sup>35</sup>

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<sup>29</sup> *Putting a Price on Global Environmental Damage*, PRINCIPLES FOR RESPONSIBLE INVESTMENT (Oct. 5, 2010), available at <http://www.trucost.com/news-2010/100/putting-a-price-on-global-environmental-damage>. This is, of course, just the tip of the iceberg, with major global players regularly externalizing environmental costs, in part by shifting the real costs of extraction, production, and transportation to a global public.

<sup>30</sup> Many activists remain unwavering in their criticism of CSR, arguing that it privatizes functions traditionally executed by the state, outsourcing health, education, and social welfare to organizations that are fundamentally concerned with maximizing profits. These critics argue that global asymmetries offer a convenient cover for a creeping neo-liberal agenda that will ultimately dismantle international regulatory frameworks. Surendra Pratap, *Corporate Social Responsibility and the Political Agenda of the Corporate*, ASIA MONITOR RESOURCE CENTER (Nov. 25, 2014), available at <http://www.amrc.org.hk/node/1211>. These criticisms are certainly part of the story, though it is unclear whether the world’s most vulnerable citizens are as concerned about neo-liberalism as are academics and activists.

<sup>31</sup> See, e.g., Sarah Frostenson & Megan O’Neil, *10 Companies That Gave the Most Cash in 2013*, THE CHRON. OF PHILANTHROPY (July 13, 2014), <https://philanthropy.com/article/10-Companies-That-Gave-the/150507> (America’s ten largest corporate donors made more than \$2.2 billion in charitable donations in 2013).

<sup>32</sup> See DINAH RAJAK, IN GOOD COMPANY: AN ANATOMY OF CORPORATE SOCIAL RESPONSIBILITY (2012).

<sup>33</sup> The EC defines CSR as “a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis.” EUROPEAN COMMISSION, A RENEWED EU STRATEGY 2011–14 FOR CORPORATE SOCIAL RESPONSIBILITY 3 (2011), available at [http://ec.europa.eu/enterprise/policies/sustainable-business/files/csr/new-csr/act\\_en.pdf](http://ec.europa.eu/enterprise/policies/sustainable-business/files/csr/new-csr/act_en.pdf).

<sup>34</sup> Christian Parenti, *A Radical Approach to the Climate Crisis*, DISSENT (2013), <http://www.dissentmagazine.org/article/a-radical-approach-to-the-climate-crisis> (last visited May 16, 2015).

<sup>35</sup> Critics observe that this “imperative to act” is regularly used by government and corporate actors to advance questionable agendas, from austerity to climate engineering. I leave it to the reader to decide whether climate change, for example, is a pressing enough problem to demand immediate action. See ANDREA

This article argues that MNCs have the capacity to address critical global challenges, that they have numerous incentives to invest in Sustainable Development, and that the SDGs are just one among many reasons that CSR is on its way to becoming Standard Operating Procedure for many of the 500 largest corporations in the world, that account for roughly 70 percent of global trade.<sup>36</sup> Part II explores the corporate capacity to “do-good” by making sustainable development a core part of business practices.<sup>37</sup> Many observers claim that MNCs have a unique capacity to “do-good” better because they have financial, technological, and human resources that NGOs typically do not have.<sup>38</sup> These observers believe that MNCs are agile, entrepreneurial, and results-oriented in a way that highly bureaucratic governmental organizations are not. Part II also offers an alternative explanation, arguing that NGOs and IGOs working to advance Sustainable Development should look to MNCs not because they “do-good better,” as many advocates claim, but because their transnational logic provides them with rich incentives to invest in goals articulated in the SDGs.

Part III analyzes different ways that CSR provides MNCs with a Social License to Operate. Historically, MNCs have not prioritized investment in local communities, and this has regularly created friction between MNCs domiciled in the richest countries, and Civil Society Actors (“CSAs”) in the developing world.<sup>39</sup> In politically unstable regions, this can dramatically undermine MNCs in their ability to maintain a baseline of security.<sup>40</sup> A comprehensive CSR strategy can help MNCs move beyond physical security to civil society partnerships, creating a Social License to Operate.

Part IV explores different economic incentives for MNCs to invest in sustainable development. This section demonstrates that making CSR a core part of strategic planning makes financial sense through focusing on public relations and branding, shareholder value, and market penetration.

Part V highlights indicators which suggest that CSR may be on its way to becoming Standard Operating Procedure. As investment and sovereign wealth

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MUEHLENBACH, *THE MORAL NEO-LIBERAL: WELFARE AND CITIZENSHIP IN ITALY* (2012); *see also* CLIVE HAMILTON, *EARTHMASTERS: THE DAWN OF THE AGE OF CLIMATE ENGINEERING* (2013).

<sup>36</sup> WORLD TRADE ORG., *TRADE LIBERALISATION STATISTICS* [http://www.gatt.org/trastat\\_e.html](http://www.gatt.org/trastat_e.html) (last visited May 16, 2015).

<sup>37</sup> John Elkington, *Towards the Sustainable Corporation: Win-Win-Win Business Strategies for Sustainable Development*, 36 CAL. MGMT. REV. 90 (1994).

<sup>38</sup> *See* OLIVER WILLIAMS, *CORPORATE SOCIAL RESPONSIBILITY: THE ROLE OF BUSINESS IN SUSTAINABLE DEVELOPMENT* (2013); *see also* PETER AND CRAIG WILSON, *MAKE POVERTY BUSINESS: INCREASE PROFITS AND REDUCE RISKS BY ENGAGING WITH THE POOR* (2006).

<sup>39</sup> SRI URIP, *CSR STRATEGIES: CORPORATE SOCIAL RESPONSIBILITY FOR A COMPETITIVE EDGE IN EMERGING MARKETS* 23 (2010).

<sup>40</sup> *See* U. Idemudia, *Corporate Social Responsibility and Conflict in the Niger Delta: Issues and Prospects*, in *OIL AND INSURGENCY IN THE NIGER DELTA: MANAGING THE COMPLEX POLITICS OF PETROVIOLENCE* 167-83 (O. Cyril and S. A. Rustad, eds., 2011).



funds, private foundations, and NGOs leverage capital flows and public opinion, MNCs are coming under increased pressure to invest in a more sustainable, socially responsible manner. The article concludes by “bringing the state back in,”<sup>41</sup> and argues that the Sustainable Development Goals are part of a larger trend that is making CSR strongly normative. It remains to be seen whether the initiatives currently being negotiated will be adequate in the face of critical challenges like climate change.

## II. DO MNCs “DO-GOOD” BETTER? MOVING BEYOND THE “CORPORATE CAPACITY” ARGUMENT

Corporate Social Responsibility emerged in the 1960s and 1970s in response to growing concerns about the social and environmental harms done by business.<sup>42</sup> In the 1990s, though, a new class of social entrepreneurs<sup>43</sup> began to argue that the private sector could make a measurable impact on problems that governments were unable to solve.<sup>44</sup> Advocates of CSR argue that it is time to apply business models and an entrepreneurial approach to the complicated issues. The Skoll Foundation, for example, claims to “have identified . . . extraordinary leaders . . . [who] are creating the innovative models that can spark large-scale change for seemingly intractable social problems.” As they explain:

[e]very one of our social entrepreneurs operates with other players in a complex ecosystem with entrenched interests that resist change—but timing is everything. There are moments when the dynamics of an ecosystem shift—an inflection point—when changes in the ecosystem present opportunities to act that will have outsized impact.<sup>45</sup>

In this way, the Skoll Foundation advocates for the business model approach to social problems.

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<sup>41</sup> See PETER EVANS ET AL., BRINGING THE STATE BACK IN (1985).

<sup>42</sup> See Wayne Visser, *CSR 2.0: The Evolution of Corporate Social Responsibility*, in RESPONSIBLE BUSINESS: HOW TO MANAGE A CSR STRATEGY SUCCESSFULLY 311 (Manfred Pohl and Nick Tolhurst, eds., 2010).

<sup>43</sup> This view has contributed substantially to the “Rise of Social Entrepreneurship,” which sees innovators attempting to blend purpose with profit. *The Rise of Social Entrepreneurship Suggests a Possible Future for Global Capitalism*, FORBES (May 2, 2013), <http://www.forbes.com/sites/skollworldforum/2013/05/02/the-rise-of-social-entrepreneurship-suggests-a-possible-future-for-global-capitalism>. For an early contribution to the literature on social entrepreneurship, see CHARLES LEADBEATER, THE RISE OF SOCIAL ENTREPRENEURSHIP (1997).

<sup>44</sup> Voluntary Associations and NGOs also respond to perceived gaps in government capacity, but unlike corporate actors, these efforts have not typically included an indictment of the role of governmental intervention and regulation. CAN NGOS MAKE A DIFFERENCE? THE CHALLENGE OF DEVELOPMENT ALTERNATIVES (Anthony J. Bebbington et al., eds., 2008).

<sup>45</sup> *Approach*, SKOLL FOUNDATION, <http://www.skollfoundation.org/approach/> (last visited May 16, 2015).

“Thought leaders” argue that organizations working on the world’s most difficult problems need to be lean, agile, and entrepreneurial,<sup>46</sup> and this view is gaining ground even in the public sector. At the 2006 *Business in the Community Forum*, for example, British Prime Minister David Cameron asked his audience “[w]ho better than Coca Cola, a firm with a better distribution network in Sub-Saharan Africa than any aid agency, to get materials out to needy populations?”<sup>47</sup> Large Multi-Nationals do have extraordinary tools at their disposal, including financial resources, communication and distribution infrastructure, and access to government and civic leaders.<sup>48</sup> But is this technical capacity and entrepreneurial ethos really the reason that MNCs are uniquely positioned to “do-good” better?

Leaders from both the public and private sector argue that entrepreneurs “do-good” better, but it is not at all clear that initiatives that leverage business models are actually more effective than established NGOs or IGOs in achieving desired outcomes. Micro-finance has made important impacts in South Asia,<sup>49</sup> as has the distribution of antiretroviral therapies to combat the spread of HIV/AIDs in Sub-Saharan Africa.<sup>50</sup> In both these cases, MNCs have played an important role. However, their impact relative to initiatives sponsored by the Red Cross, Catholic Charities Global, USAID, German Society for International Cooperation (*Deutsche Gesellschaft für internationale Zusammenarbeit*), the World Health Organization, and the World Bank is yet to be determined. CSR may, in other words, be more efficient, innovative, and accountable than (inter) governmental and non-governmental initiatives, but this is by no means self-evident.

Applying business models to NGOs can also have unintended consequences. In an effort to secure funding from corporations that seek measurable outcomes, many small NGOs have added full-time grant writers to the staff, significantly increasing the costs of administering their programs.<sup>51</sup> In some cases, NGOs have been criticized for the high salaries paid to development and executive officers, many of whom are drawn from the corporate sector.<sup>52</sup> The Ford Foundation’s Lisa Jordan cites one example where a CEO for a well-established Dutch NGO

<sup>46</sup> For a good example of this kind of thinking, see Ryan Seashore, *Run a Non-Profit like a Startup to Move Fast and Help Things*, TECHCRUNCH (Jan. 6, 2015), <http://techcrunch.com/2015/01/06/run-a-nonprofit-like-a-startup-to-move-fast-and-help-things/>. It is not evident which “things” Seashore proposes to “help.”

<sup>47</sup> RAJAK, *supra* note 32, at 29.

<sup>48</sup> *Id.* at 7.

<sup>49</sup> CSR Initiatives of Citi India, CSR WORLD, available at <http://csrworld.net/csr-initiatives-of-citi-india.asp> (last visited May 1, 2015).

<sup>50</sup> RAJAK, *supra* note 32, at 116–41.

<sup>51</sup> Kim Reimann, *Up to No Good? Recent Critics and Critiques of NGOs*, in SUBCONTRACTING PEACE: THE CHALLENGES OF NGO PEACEBUILDING 37 (Oliver Richmond & Henry Carey eds., 2005).

<sup>52</sup> JEM BENDELL, DEBATING NGO ACCOUNTABILITY, U.N. NON-GOVERNMENTAL LIAISON SERVICE DEV. DOSSIERS, ix (2006) (“To illustrate, in just a few months major US newspapers such as the *New York Times*, *Washington Post*, and *Wall Street Journal* published over 30 articles about the ethical failures of such organizations. They flagged the sky-high salaries of top executives, and expenses for offices, travel and other perks.”).

reportedly earned more than the Prime Minister of the Netherlands.<sup>53</sup> The benefits accruing to NGOs that employ grant writers, consultants, and business leaders in order to optimize results need to be measured against the costs of doing so.<sup>54</sup>

Advocates of CSR may cite entrepreneurship, innovation, and efficiencies as the reasons that corporations are positioned to “do-good” better. Ultimately, though, MNCs have the capacity to be powerful partners in the fight to protect the global commons because their incentive structure is fundamentally different from the one that governs nation-state actors. Unlike nation-states that are constrained by citizens who live within borders, MNCs answer to constituencies that are likely to be open to more global intervention rather than less. MNC constituencies are made up of the shareholders who are inclined to support actions that are perceived to raise revenue. If CSR continues to make good business sense out of “doing-good,” shareholders are unlikely to raise objections. MNCs have a second constituency that makes more global CSR an attractive proposition, and that is the local consumer in target markets. By enhancing their presence in local markets through initiatives that are seen as improving the quality of life, MNCs can build their relationship with potential consumers in tangible and intangible ways.<sup>55</sup> Unlike nation-state actors, who must convince reluctant voters that foreign aid dollars are worth spending, MNCs can satisfy their two main constituencies by making sustainable development a core part of strategic planning.

### III. INCENTIVES TO ADVANCE SUSTAINABLE DEVELOPMENT: BEYOND PHYSICAL SECURITY TO CIVIL SOCIETY PARTNERSHIPS

Many observers claim that MNCs have a capacity to “do-good” better than NGOs, nation-states, and IGOs because of their entrepreneurial ethos and technical know-how. The previous section challenges these claims, suggesting that MNCs have the potential to impact critical global issues not because of their unique competencies, but because of their particular incentive structure. The following section explores one important incentive that is often overlooked, examining the way that CSR can help MNCs enhance “security” in politically unstable regions. It

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<sup>53</sup> Lisa Jordan, *Mechanisms for NGO Accountability*, GLOBAL PUB. POL. INST. RESEARCH PAPER SERIES NO. 3 at 6 (2005).

<sup>54</sup> The effort to create accountability within the NGO sector raises other potential problems. In some instances, the drive for efficiency means that initiatives are funded with unrealistic timelines. Programming in cultural exchange, education, gender equality, and environmental sustainability are all investments that yield results over mid to long-term horizons that are not easily measured by traditional accounting techniques. See Danilo Songco, *The Evolution of NGO Accountability Practices and Their Implications on Philippine NGOs. A Literature Review and Options Paper for the Philippine Council for NGO Certification*, available at <http://www.hapinternational.org/pool/files/philippines-evolution-of-ngo-accountability-implications.pdf> (last visited May 1, 2014).

<sup>55</sup> Mark S. Blodgett et al., *Sustaining the Financial Value of Global CSR: Reconciling Corporate and Stakeholder Interests in a Less Regulated Environment*, 119 BUS. AND SOC’Y REV. 95, 95–124 (2014).

argues that MNCs can achieve a baseline of security in politically unstable regions by making investments in education, infrastructure, economic empowerment, gender equality, and environmental protection. CSR can play a key role building a predictable, efficient, and secure working environment for MNCs. When talking about MNCs, the obvious place to start is with basic principles of capitalism.

The most thoughtful observers of capitalism, including Max Weber, Fernand Braudel, and Giovanni Arrighi, have all shown that global exchange thrives only when a certain baseline of security exists.<sup>56</sup> In an ideal situation, the state will enforce the rule of law, contract obligations, and the sanctity of private property, and it is able to do so because, at least in the most developed capitalist economies, the state possesses “the monopoly on the legitimate use of physical force.”<sup>57</sup> The state, in other words, can potentially deploy violence—whether in the form of police enforcement, imprisonment, or, in some cases, execution—in order to preserve the core pillars of a modern capitalist society. For organizations operating in the developed world, the state plays a key role in ensuring the rule of law, contract, and private property.<sup>58</sup> A baseline of “security” can be expected.

The problem of “security” for MNCs operating in a global context, though, is rather different. It is not only that MNCs have to negotiate the complexities of international law, local customs, and unfamiliar political constellations.<sup>59</sup> They must also operate in a fundamentally different “security” environment.<sup>60</sup> What happens when corporations domiciled in London, New York, Frankfurt or Tokyo operate in countries where the state is unable to guarantee contract, private property, and the rule of law?<sup>61</sup> Political Scientist Joel Migdal called these “Strong Societies” with “Weak States,” and in countries of this sort, religious, ethnic, or political groups may supply the goods and services—from health care to food and sanitation—that the state is unable to deliver.<sup>62</sup> In strong societies with weak states, the ability to enforce the rule of law, contract, and private property is fundamentally contested. Who, then, guarantees “security” in its broad sense,

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<sup>56</sup> GIOVANNI ARRIGHI, *THE LONG TWENTIETH CENTURY: MONEY, POWER, AND THE ORIGINS OF OUR TIMES* (2010); FERNAND BRAUDEL, *THE WHEELS OF COMMERCE* (Siân Reynolds trans., 1992); MAX WEBER, *THE THEORY OF SOCIAL AND ECONOMIC ORGANIZATION* (A.M. Henderson and Talcott Parsons trans., 1947).

<sup>57</sup> Max Weber, *Politics as a Vocation*, in MAX WEBER, *ESSAYS IN SOCIOLOGY* 77–128 (H. H. Gerth and C. Wright Mills trans. 1946).

<sup>58</sup> RAJAK, *supra* note 32, at 27.

<sup>59</sup> GLOBAL PERSPECTIVES ON CORPORATE GOVERNANCE AND CSR (Güler Aras and David Crowther eds., 2009).

<sup>60</sup> Dima Jimali, *CSR in Developing Countries Through an Institutional Lens*, in CORPORATE SOCIAL RESPONSIBILITY AND SUSTAINABILITY: EMERGING TRENDS IN DEVELOPING ECONOMIES 21 (Gabriel Edejwe ed., 2014).

<sup>61</sup> RAJAK, *supra* note 32, at 27.

<sup>62</sup> JOEL MIGDAL, *STRONG SOCIETIES AND WEAK STATES: STATE-SOCIETY RELATIONS AND STATE CAPABILITIES IN THE THIRD WORLD* (1988). Recent examples might include Colombia, Palestine, Egypt, or Pakistan.

ensuring that property will not be expropriated, contracts will be fulfilled, and safety can be expected? These are questions that MNCs regularly face, particularly when operating in politically contested regions.<sup>63</sup>

Historically, MNCs have allied with the state, even in situations where the state was weak and society was strong. This is understandable, because even weak states maintain nominal control of legal, political, and military institutions, and are typically recognized by international bodies.<sup>64</sup> This approach to the security problem, though, has the potential to generate conflicts over the long-term, alienating key elements in civil society and/or contenders for political power. Here, CSR has the potential to generate relationships across ethnic, religious, political, and cultural differences.<sup>65</sup>

Making strategic investments to promote the Sustainable Development Goals can help MNCs build ties with diverse political and civil-society stakeholders. Furthermore, MNCs that invest in core SDGs like improved sanitation, food security, health infrastructure, and economic empowerment are in a position to build these relationships without becoming enmeshed in historical, current, or potential contests for power. This is a level of political risk management that MNCs have not explored, but it is a fundamental principle of the most established Aid Agencies.<sup>66</sup> In operating environments where political control may change hands frequently, or where authority is fragmented across physical, ethno-religious, or cultural geographies, investing in local communities is one way to build the trust that will be necessary to ensure property, contract, and the rule of law in the absence of a state monopoly on the legitimate use of force.<sup>67</sup>

It is worth pointing out that this “anti-political” approach can be extraordinarily cynical: in some cases, MNCs may avoid investing in some of the SDGs in the hopes of side-stepping politically contested issues. Faced with the metastasis of Boko Haram in Nigeria, for example, MNCs scrambling to enter the

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<sup>63</sup> MNCs clearly recognize that political uncertainty, corruption, and the lack of transparency have the potential to deform civil society and the basic mechanisms of exchange. These were just some of the topics addressed at a recent Transparency International Conference in Berlin. Transparency International, 5th Annual Conference on the Future of Corporate Social Responsibility (Berlin) (Oct. 4–6, 2012).

<sup>64</sup> For example, in Yemen, Libya, and Egypt.

<sup>65</sup> This can be described as an “anti-politics”, where diverse and sometimes hostile groups create consensus around a particular issue. On the concept of an anti-politics, see GYÖRGI KONRÁD, *ANTI-POLITICS: AN ESSAY* (1984). For a brief introduction that addresses some key elements of anti-politics, see Avi Sharma, *Anti-Politics of Health: Consensus and Conflict in the German Natural Healing Movement, 1890-1910*, 10 *CIRCUMSCRIBERE* 66 (2011).

<sup>66</sup> Adam Grove, *NGOs in New Wars: Neutrality or New Humanism?* (Mar. 15, 2008) (unpublished student essay, Oxford University) (on file with E-International Relations Students); Denise Plattner, *ICRC Neutrality and Neutrality in Humanitarian Assistance*, 311 *INT’L REV. OF THE RED CROSS* 161 (1996); Lyal S. Sunga, *Relief Agencies and Moral Standing in War: Principles of Humanity, Neutrality, Impartiality, and Solidarity*, in *DEVELOPMENT, WOMEN AND WAR: FEMINIST PERSPECTIVES* (Haleh Afshar and Deborah Eade, eds., 2004).

<sup>67</sup> Weber, *supra* note 57.

Nigerian market may explicitly ignore issues like gender equality and equal access to education for girls in order to avoid antagonizing violent non-state actors.<sup>68</sup> Neutrality also, in some cases, provides a convenient cover for businesses unwilling to terminate lucrative contracts in conflict zones.<sup>69</sup> These troubling ethical questions are outside the scope of the present article. However, it is clear that MNCs have an incentive to make targeted investments in Sustainable Development as part of a strategy for sustained growth in politically unstable regions.

This point is not lost on politically savvy corporate executives, who recognize that CSR potentially contributes to political stability, increased efficiency, and better civil-society partnerships. In 2006, the Chairman of London based mining giant Anglo-American told an audience in London that “some 70% of our operations are in developing countries, in many of them government capacities are limited or lacking, institutions are often weak and poverty is a major challenge.”<sup>70</sup> Another Anglo-American executive put the matter more simply: “We want to do business with [your government], but in various ways you make it very difficult. Let us help you do away with those difficulties.”<sup>71</sup> These candid statements show that CSR can function as a tool of political risk mitigation; the kinder, gentler arm of a strategy that aims to create security.<sup>72</sup>

#### IV. CSR IS GOOD BUSINESS AND A “REPUTATIONAL IMPERATIVE”: GLOBAL SHAREHOLDERS AND LOCAL CONSUMERS

CSR can enhance the security environment in politically volatile regions by forging relationships with civil-society partners, but investment in sustainable development has also proven that it can generate measurable returns for shareholders. The following section details some of the ways that robust CSR programming makes good investment sense, before exploring the partnership between Unilever and more than 60,000 village women across India.<sup>73</sup> The

<sup>68</sup> See Fiona Fox, *New Humanitarianism: Does it Provide a Moral Banner for the 21st Century*, 25 DISASTERS 275 (2001). See also Fiona Fox, *Conditioning the Right to Humanitarian Aid, Human Rights and the New Humanitarianism*, in RETHINKING HUMAN RIGHTS, (David Chandler, ed., 2002).

<sup>69</sup> Michael Peel, *Iran, Russia and China Prop Up Assad economy*, FINANCIAL TIMES (June 27, 2013), available at <http://www.ft.com/cms/s/0/79eca81c-df48-11e2-a9f4-00144feab7de.html#axzz3Vn43Ysll>.

<sup>70</sup> RAJAK, *supra* note 32, at 52.

<sup>71</sup> *Id.* at 54.

<sup>72</sup> Siri Moen, *Managing Political Risk: Corporate Social Responsibility as a Risk Mitigation Tool – A Focus on Niger Delta, Southern Nigeria*, 43 AFR. INSIGHT 90 (2013). This is something that nation-state actors also do, and “soft power” has long been an important dimension of foreign policy. Unfortunately, budgets for international development work, cultural and educational exchange programming, and other initiatives aimed at creating peace etc. tend to be first on the cutting block when it comes to foreign aid spending.

<sup>73</sup> *Project Shakti. Creating rural entrepreneurs in India*, UNILEVER (2005), available at [http://www.unilever.tt/Images/es\\_Project\\_Shakti\\_tcm195-13297.pdf](http://www.unilever.tt/Images/es_Project_Shakti_tcm195-13297.pdf).



Unilever case—also known as the “Shakti revolution”—shows that investing in Sustainable Development Goals like educational and economic empowerment for women and girls, better sanitation and health infrastructure, public-private partnerships, and innovative finance for sustainable economic growth can yield substantial Return on Investment (“ROI”) at the “Bottom of the Pyramid,” which comprises of billions of the world’s poorest consumers.<sup>74</sup>

#### A. “Doing Good”—A Reputational Imperative

When it comes to “doing-good,” measuring ROI is a difficult undertaking, but there is growing evidence that CSR is a good investment. A recent USA Today survey, for example, discovered that 90 percent of consumers polled across ten countries would boycott a firm perceived to be engaged in irresponsible or risky practices.<sup>75</sup> According to a recent study undertaken by CONE Communications, 91 percent of consumers believe that “companies must go beyond the minimum standards required by law” to fulfill their social responsibilities, while more than 80 percent of consumers consider CSR when deciding where to work, what to buy, where to shop, and which products to recommend to family, friends, and colleagues.<sup>76</sup> According to PR specialists, CSR has become a “reputational imperative” in the age of social media.<sup>77</sup> Although advertising and communications firms have a clear incentive in promoting CSR and the public relations work that comes with it, there is growing evidence to support this claim. Organizations like Edelman<sup>78</sup> and the World Business Council for Sustainable Development (“WBCSD”)<sup>79</sup> are just two of the many organizations tracking the relationship between good corporate citizenship and brand loyalty.<sup>80</sup>

<sup>74</sup> C.K. PRAHALAD, *THE FORTUNE AT THE BOTTOM OF THE PYRAMID: ERADICATING POVERTY THROUGH PROFITS* (2005).

<sup>75</sup> Jayne O'Donnell, *Survey: Most Would Boycott Irresponsible Company*, USA TODAY (May 21, 2013), <http://www.usatoday.com/story/money/business/2013/05/21/consumers-boycott-companies-bad-behavior-gap-protests/2343619/>.

<sup>76</sup> Press Release, Cone Communications, *Cone Releases the 2013 Cone Communications/Echo Global CSR Study* (May 22, 2013) available at <http://www.conecomm.com/2013-global-csr-study-release>.

<sup>77</sup> Archie O'Brien, *10 Ways to Measure the ROI of Public Relations*, EVERYTHING PR (Feb. 23, 2013), available at <http://everything-pr.com/roi-public-relations/241033/#.UjD448afjV5>.

<sup>78</sup> *2013 Edelman Trust Barometer*, EDELMAN, <http://www.edelman.com/insights/intellectual-property/trust-2013/> (last visited May 1, 2014).

<sup>79</sup> THE WORLD BUS. COUNCIL FOR SUSTAINABLE DEV. (WBCSD), *GLOBAL SCENARIOS 2000-2050: EXPLORING SUSTAINABLE DEVELOPMENT* (1997).

<sup>80</sup> Major stock indexes, including Dow Jones, DAX, NASDAQ, and FTSE also measure CSR and SRI. In addition, there are the influential UN Social Responsibility Investment Index and the Global Impact Investment Rating System (GIIRS). Some are critical of the so-called “ratings game,” noting that the diverse metrics used to evaluate CSR, SRI, and Impact Investing vary dramatically, and in many cases, fail to create a coherent framework for measuring the effectiveness of Corporate Social Responsibility Initiatives. See Michael Porter & Mark Kramer, *Strategy and Society: the Link Between Competitive Advantage and Corporate Social Responsibility*, 84 HARVARD BUS. REV. 78 (2006).

### B. *Measuring Return on Investment*

If some traditional investors are unconvinced by these qualitative measures of ROI, there are some hard numbers that suggest that inclusion in Social Responsibility Indices correlates strongly with increased shareholder value. A Joint Paper published by the Federal Reserve Bank and the Bank of Finland, for example, showed that from 1990 to 2004, stocks that were dropped from a major Socially Responsible Investing (“SRI”) Index experienced an average 3 percent decline in share price.<sup>81</sup> Another study conducted over the period 2000-2007 showed that inclusion in the Dow Jones Sustainability Index amounted to a “boost in market value of about 2% compared to stocks that were dropped [from the index].”<sup>82</sup> The Asset Management Working Group of the UN Environment Programme even suggested that SRI, including investment in economic empowerment, education, and sustainability, could be treated as a proxy for good corporate governance.<sup>83</sup> In this view, investment in CSR is often perceived by investors as a way of evaluating the mid to long-term value of publicly traded companies.<sup>84</sup> While there is still work to be done in quantifying ROI, there are a number of indicators that suggest that MNCs should invest in Sustainable Development if they hope to satisfy their constituencies, including shareholders.

### C. *The “Bottom of the Pyramid” and Sustainable Development*

For traditional investors who are still doubtful about the calculus of investing in Sustainable Development, the “Bottom of the Pyramid” (“BoP”) strategy points to another way that CSR can create shareholder value and build the conditions for sustainable economic growth. The BoP is a well-known business development model popularized by C.K. Prahalad in his 2004 book “Fortune at the Bottom of the Pyramid: Eradicating Poverty Through Profits”.<sup>85</sup> Prahalad and others argued that MNCs could simultaneously expand their global market share,

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<sup>81</sup> TERENCE LIM, MEASURING THE VALUE OF CORPORATE PHILANTHROPY: SOCIAL IMPACTS, BUSINESS BENEFITS, AND INVESTOR RETURNS 57, 58 (2010).

<sup>82</sup> *Id.*

<sup>83</sup> *Id.* at 58. See also The Asset Management Working Group, *Demystifying Responsible Investment Performance – A Review of Key Academic and Broker Research on ESG Factors*, UNEP FINANCE INITIATIVE (2007), available at [http://www.unepfi.org/fileadmin/documents/Demystifying\\_Responsible\\_Investment\\_Performance\\_01.pdf](http://www.unepfi.org/fileadmin/documents/Demystifying_Responsible_Investment_Performance_01.pdf) (providing overview of research).

<sup>84</sup> This is precisely the justification offered by Norwegian Pension funds as they divest from high impact industries like coal and gold mining. 2014 *Responsible Investment Government Pension Fund Global*, NORGE BANK INVESTMENT MANAGEMENT, available at <http://www.nbim.no/globalassets/reports/2014/2014-responsible-investment.pdf> (last visited May 1, 2014); see also LIM, *supra* note 81, at 59.

<sup>85</sup> PRAHALAD, *supra* note 74.

increase profits, energize developing economies, and empower the world's most vulnerable citizens by concentrating not on low volume and high margin sales in the developed world, but by inverting that model.<sup>86</sup> By generating high volume sales at a low margin, MNCs could provide goods and services to consumers in the developing world while increasing investor value at home.<sup>87</sup> Prahalad argued that this was the beginning of a virtuous circle of sustainable business growth and economic empowerment.<sup>88</sup> As investors look to expand in emerging markets, MNCs are increasingly trying to tap into the BoP, which comprises more than four billion consumers who have historically existed outside networks of global exchange because of poverty or extreme poverty. Unilever is one well-known example of an MNC that has created a plan for sustainable long-term growth by empowering the world's poorest.<sup>89</sup>

The BoP created much excitement in investment circles, but it also raised objections. One criticism has implications for the CSR in general and the Unilever strategy in particular: Erik Simanis argued in the *Harvard Business Review* that returning a profit based on low margins depends on massive market penetration.<sup>90</sup> While there are questions about the exact figures, Simanis argues that MNCs need to capture a baseline of 30 percent market share to make the BoP model work.<sup>91</sup> Achieving this kind of brand recognition and loyalty is no easy task. But as Unilever has shown, economic empowerment, education, and civil-society partnerships can be powerful tools to achieve this kind of market penetration.<sup>92</sup>

In 2000, Unilever India (now Hindustan Unilever) embarked on the Shakti entrepreneurship project, which invited women in two rural villages to act as representatives and agents for Unilever products in local communities.<sup>93</sup> Shakti entrepreneurs take out small loans, typically financed by village collectives and

<sup>86</sup> *Id.* at 24; see also Rachel E. Ryon, *Foreigners in Burma: A Framework for Responsible Investment*, 23 PAC. RIM L. & POL'Y J. 831, 857 (2014) (applies this reasoning to investment in Burma).

<sup>87</sup> *Id.*

<sup>88</sup> *Id.* The BoP model has much to recommend it, but it also raises concerns. Richard Heinberg among others notes that a "continuous growth" model built on emerging markets has potentially dramatic environmental impacts. Advocates of growth driven by economic empowerment of the world's poorest citizens, though, respond by pointing out that increased efficiencies in production, transportation, and distribution can potentially increase buying power at the BoP without expanding the corporate carbon footprint. This is one key debate for the 21st century, where the goals of economic development and environmental sustainability sometimes collide. See generally RICHARD HEINBERG, *THE END OF GROWTH: ADAPTING TO OUR NEW ECONOMIC REALITY* (2011).

<sup>89</sup> See India: *Creating Rural Entrepreneurs*, UNILEVER, <http://www.unilever.tt/sustainability/casestudies/economic-development/creating-rural-entrepreneurs.aspx> (last visited May 16, 2015).

<sup>90</sup> See Erik Simanis, *Reality Check at the Bottom of the Pyramid*, HARV. BUS. REV. (June 2012), available at <https://hbr.org/2012/06/reality-check-at-the-bottom-of-the-pyramid>.

<sup>91</sup> *Id.*

<sup>92</sup> See Ashish Karamchandani, Mike Kubbzansky & Nishant Lalwani, *The Globe: Is the Bottom of the Pyramid Really for You?*, HARV. BUS. REV. (Mar. 2011), available at <https://hbr.org/2011/03/the-globe-is-the-bottom-of-the-pyramid-really-for-you>.

<sup>93</sup> *Project Shakti, Creating Rural Entrepreneurs in India*, UNILEVER, [http://www.unilever-jm.com/Images/es\\_Project\\_Shakti\\_tcm154-141088.pdf](http://www.unilever-jm.com/Images/es_Project_Shakti_tcm154-141088.pdf) (last visited May 16, 2015).

microfinanciers, to buy stakes ranging between INR 10,000–15,000 (USD 220–330) in the Hindustan Unilever operation.<sup>94</sup> Operating in local villages, Shakti entrepreneurs bring Unilever products to village markets, selling to a difficult to reach consumer base. In addition to their retail work, Shakti entrepreneurs give presentations on basic health and hygiene, from hand washing to prenatal and early childhood care.<sup>95</sup> For communities that are medically underserved, this can be an invaluable resource.<sup>96</sup>

By the end of 2004, the Unilever initiative had grown to more than 13,000 Shakti entrepreneurs covering 50,000 villages in twelve states, selling to seventy million consumers.<sup>97</sup> By 2013, the number of Shakti entrepreneurs had reached more than 65,000 women working in 160,000 villages across India.<sup>98</sup> The Shakti Project has had measurable impacts on the lives of the rural women who became agents for Unilever Hindustan because their average income rose by USD 180–260 annually.<sup>99</sup> While these wages are nominal by Western standards, they create an important supplement to rural family incomes, which according to a recent World Bank Report, average just USD 250 in India.<sup>100</sup> As Hindustan Unilever works to empower local women entrepreneurs, it is also creating a whole new consumer base—one that can be expected to have personal and community ties to the brand.<sup>101</sup> Shakti entrepreneurs have increased Unilever's market penetration more than three fold in less than fifteen years.<sup>102</sup>

The Shakti project did not end with entrepreneurship; in 2004 Unilever partnered with the government of the state of Andhra Pradesh, the Azim Premji Foundation, TATA Consultancy services, and 300 other partners to provide internet enabled computers to select villages. “Mostly housed in the homes of Shakti entrepreneurs, I-Shakti kiosks provide villagers with free access to information on a wide range of topics,” including health and hygiene, agriculture,

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<sup>94</sup> *Id.*

<sup>95</sup> *Facts and Figures: Water, Sanitation and Hygiene Links to Health*, WORLD HEALTH ORG., [http://www.who.int/water\\_sanitation\\_health/publications/factsfigures04/en/](http://www.who.int/water_sanitation_health/publications/factsfigures04/en/) (last visited May 16, 2015).

<sup>96</sup> *Id.* (quoting Former United Nations Secretary General Kofi Annan, “We shall not finally defeat AIDS, tuberculosis, malaria, or any of the other infectious diseases that plague the developing world until we have also won the battle for safe drinking water, sanitation and basic health care”).

<sup>97</sup> *Project Shakti, Creating Rural Entrepreneurs in India*, *supra* note 93.

<sup>98</sup> UNILEVER, HINDUSTAN UNILEVER UNLIMITED ANNUAL REPORT 2013–14: MAKING SUSTAINABLE LIVING COMMONPLACE 11 (2014), available at [http://www.hul.co.in/Images/HUL-Annual-Report-2013-14\\_tcm114-391926.pdf](http://www.hul.co.in/Images/HUL-Annual-Report-2013-14_tcm114-391926.pdf) [hereinafter UNILEVER ANNUAL REPORT 2013–14].

<sup>99</sup> *See id.*

<sup>100</sup> Gavin Neath & Vijay Sharma, *The Shakti Revolution: How the World's Largest Home-to-Home Operation is Changing Lives and Stimulating Economic Activity in Rural India*, 10 DEV. OUTREACH 13, 13–16 (2008), available at [http://elibrary.worldbank.org/doi/pdf/10.1596/1020-797X-10\\_2\\_13](http://elibrary.worldbank.org/doi/pdf/10.1596/1020-797X-10_2_13).

<sup>101</sup> *See* William B. Werther Jr. & David Chandler, *Strategic Corporate Social Responsibility as Global Brand Insurance*, 48 BUS. HORIZONS 317 (2005).

<sup>102</sup> *See* UNILEVER ANNUAL REPORT 2013–14, *supra* note 98.

education, finance, employment, and entrepreneurship.<sup>103</sup> Sustainable Development Initiatives like I-Shakti and Shakti entrepreneurship have been impressive in their ability to empower women, but they are also introducing potential consumers to core Unilever products, including Pureit (Home Water Purification Devices), Domex (household cleaning products), and Lifebuoy (“health soap”).

In this case, a comprehensive CSR strategy simultaneously accomplishes multiple objectives. It empowers thousands of rural women who make up the backbone of many local communities; it brings Unilever into tens of thousands of local markets that are necessary for the success of any BoP strategy; it builds the Unilever global brand; and it creates partnerships with governmental and civil society partners. Hindustan Unilever ultimately hopes to reach 600 million consumers in 550,000 Indian villages,<sup>104</sup> and it is well on its way to achieving the 30 percent market-penetration that is one important key to capturing the BoP.

Unilever has long been a key global player in health, hygiene, and beauty products, and its market share continues to expand. Unlike other MNCs, though, Unilever has made socially responsible investing a core component of its business strategy.<sup>105</sup> Its success in both financial and non-financial indicators shows that a plan for long-term, sustainable growth may be a model for MNCs hoping to increase investor value and to build a Social License to Operate (“SLO”). CSR is a rational bet for MNCs concerned with brand image, investor value, and sustainable growth.

At present, we cannot pinpoint why individual MNCs invest in CSR, but one thing is very clear. MNCs have a variety of incentives to look beyond national borders, to empower potential consumers, to protect vital natural resources, and to make investments in peace and stability. Unlike nation-state actors that are structurally disposed towards a parochial view of international affairs, MNCs can satisfy their “constituencies” by taking an internationalist view of global affairs.

#### V. SUSTAINABLE DEVELOPMENT AT THE INTERSECTION OF PUBLIC AND PRIVATE: GLOBAL GOOD CITIZENSHIP AS STANDARD OPERATING PROCEDURE

Publicity, market penetration, and shareholder satisfaction are important factors that influence corporate decision making about CSR investment, but there are numerous other reasons to think that CSR is becoming Standard Operating

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<sup>103</sup> Manoj K. Dash, *Corporate Social Responsibility (CSR) and Entrepreneurship in India: Exploring The Landscape Of Possibilities*, in IMPLEMENTING CORPORATE SOCIAL RESPONSIBILITY: INDIAN PERSPECTIVES 85, 92-93 (Subhasis Ray & S. Silva Raju, eds., 2014).

<sup>104</sup> See UNILEVER ANNUAL REPORT 2013-14, *supra* note 98.

<sup>105</sup> Urip, *supra* note 39.

Procedure for major Multi-Nationals. As investment funds, governmental actors, and civil-society partners call on MNCs to make sustainable development initiatives a part of their corporate mission, savvy executives are beginning to recognize that CSR is not just a question of competitive advantage. As we see below, investing in Sustainable Development through CSR may be the cost of doing business in Developing and Least Developed Countries.

Civil-society, philanthropic, and intergovernmental actors are all playing an increasingly important role in generating corporate commitments to invest in sustainable development. The UN-supported Principles of Responsible Investing (“PRI”) Initiative, launched in 2005 with the help of Secretary General Kofi Annan reports that “as of May 2008, approximately 300 financial institutions representing \$15 trillion in professionally managed assets have subscribed to the UN Principles for Responsible Investment.”<sup>106</sup> Organizations like the Clinton Foundation are also playing a role, leveraging strategic relationships with high-asset individuals and corporate partners to address critical global challenges.<sup>107</sup> For example, in 2013 the Clinton Foundation secured a commitment from InterEnergy, worth \$100 million, to increase the use of renewable energy in Latin America.<sup>108</sup> Although adherence to these commitments is voluntary and non-binding, signatories are raising baseline expectations for Corporate Social Responsibility. Initiatives like those supported by the UN PRI and the Clinton Foundation have the potential to influence corporate decision making and incentivize investment in Sustainable Development among organizations reluctant to make that commitment.<sup>109</sup>

In-flows of capital are also influencing corporate decision-making. As institutional investors deploy their financial resources to promote the SDGs, publicly traded MNCs will be forced to reevaluate their spending priorities.<sup>110</sup> Swedish and Norwegian Pension funds capitalized with roughly USD 1 trillion, for example, “recently signed on to the Sustainable Value Creation Initiative (“SVC”) to influence companies to improve the social and environmental aspects of their operations, which they believe reduce risks and cost while harnessing and developing business opportunities.”<sup>111</sup> This amounts to more than 100 percent of

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<sup>106</sup> Lim, *supra* note 81, at 58; See UNITED NATIONS PRINCIPLES FOR RESPONSIBLE INVESTMENT, PRI REPORT ON PROGRESS 2008 (2008), available at [http://2xjmlj8428u1a2k5o341m71.wpengine.netdna-cdn.com/wp-content/uploads/2008PRI\\_Report\\_on\\_Progress.pdf](http://2xjmlj8428u1a2k5o341m71.wpengine.netdna-cdn.com/wp-content/uploads/2008PRI_Report_on_Progress.pdf).

<sup>107</sup> See *About Us*, THE CLINTON FOUND., <https://www.clintonfoundation.org/about> (last visited May 16, 2015).

<sup>108</sup> *Million Investment in Latin America's Renewable Energy*, THE CLINTON FOUND., <https://www.clintonfoundation.org/clinton-global-initiative/commitments/100-million-investment-latin-americas-renewable-energy> (last visited May 16, 2015).

<sup>109</sup> See John Gerard Ruggie, *Business and Human Rights: The Evolving International Agenda*, 101 AM. J. OF INT'L L. 819 (2007).

<sup>110</sup> See David Weissbrodt, *Business and Human Rights*, 74 U. CIN. L. REV. 55 (2005).

<sup>111</sup> Lim, *supra* note 81, at. 57-58.



the combined GDP of the two Scandinavian countries.<sup>112</sup> The numbers still vary dramatically across global markets, and investment in sustainable growth is considerably less developed in the US, although still substantial. The Japanese External Trade Organization reported that in the US, roughly USD 2.3 trillion “is being invested in companies that rate highly on some measure of ‘doing-good,’” amounting to roughly 15 percent of GDP.<sup>113</sup> It is worth noting that, in all of the cases described above, CSR and investment in Sustainable Development is “voluntary.” However, MNCs are under growing pressure—from institutional investors, philanthropic groups, NGOs, and peer organizations—to make a commitment to sustainable development. NGOs, Foundations, and IGOs are creating new norms that MNCs will find increasingly difficult to ignore.<sup>114</sup>

There is a final factor which explains why CSR may become Standard Operating Procedure for MNCs. Over the past decade, government officials, activists, and civil-society leaders in developing economies have become increasingly vocal in demanding that MNCs invest in local communities.<sup>115</sup> For example, after years of massive investment in the resource-rich parts of Africa, Chinese investment is encountering resistance from civil-society actors as well as regional and national governments who are concerned by a perceived resource-grab by the economic powerhouse.<sup>116</sup> In 2013, responding in part to concerns voiced by African leaders, Chinese “concessional loans” and foreign aid to Africa retroactively doubled to USD 20 billion per year from 2012 to 2015.<sup>117</sup> Chinese firms operating in Africa have also been increasing spending on professional development and public health clinics, also in response to frictions with local partners.<sup>118</sup> Local expectations are turning voluntary CSR initiatives into de facto

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<sup>112</sup> More recently still, the Norwegian Oil Fund, valued at roughly USD \$860 billion, announced that it would divest from corporations with unsustainable business models. Richard Milne, *Norway Oil Fund Reveals Divestments and Resolution Rejections*, FIN. TIMES (Feb. 5, 2015), <http://www.ft.com/cms/s/0/cef444fe-ad1a-11e4-bfcf-00144feab7de.html#axzz3aLyL0nIX>; see also NORGES BANK INV. MGMT., 2014 RESPONSIBLE INVESTMENT GOVERNMENT PENSION FUND GLOBAL (2014), available at <http://www.nbim.no/globalassets/reports/2014/2014-responsible-investment.pdf>.

<sup>113</sup> See JAPAN EXTERNAL TRADE ORG., CORPORATE SOCIAL RESPONSIBILITY: AN AFRICAN CASE STUDY (FINDINGS AND RESEARCH MAINLY SOUTH AFRICAN BASED) 17 (2009), available at [http://www.ide.go.jp/English/Data/Africa\\_file/Manualreport/pdf/csr\\_all.pdf](http://www.ide.go.jp/English/Data/Africa_file/Manualreport/pdf/csr_all.pdf).

<sup>114</sup> See Larry Catá Backer, *Governing Corporations: Corporate Social Responsibility and the Obligations of States*, 26 BERKELEY J. INT'L L. 503, (2008); See Weissbrodt, *supra* note 110.

<sup>115</sup> See Backer, *supra* note 114.

<sup>116</sup> Yun Sun, *Africa in China's Foreign Policy*, THE BROOKINGS INST. 27 (Apr. 2014), available at [http://www.brookings.edu/~media/research/files/papers/2014/04/africa-china-policy-sun/africa-in-china-web\\_cmg7.pdf](http://www.brookings.edu/~media/research/files/papers/2014/04/africa-china-policy-sun/africa-in-china-web_cmg7.pdf).

<sup>117</sup> *Id.* at 8.

<sup>118</sup> ROCKEFELLER BUS. FOR SOC. RESPONSIBILITY, CHINA'S RISING INFLUENCE IN AFRICA. IS THERE ROOM FOR CSR? (2008).

requirements to work in emerging markets, and as investment in Africa grows, politicians are likely to expect more rather than less from global investors.<sup>119</sup>

In Africa, the expectation that MNCs will invest in local communities is still informal, but in other parts of the world, CSR investing is finally being codified in legal frameworks. India has already shown that global investors need to be ready to make an investment not just in Indian technology, human and natural resources, but also in its society and culture. In 2013, the Indian Ministry of Corporations recently released a revised “Companies Act,” which contains draft rules for CSR.<sup>120</sup> These state that corporations with a net worth of USD 100 million or more, or an average net profit of USD 1 million over a period of three years must dedicate 2 percent of net inland profit to CSR initiatives.<sup>121</sup> This is the first initiative of its kind, but it is unlikely to be the last. Perhaps the nation-state does, in fact, have a role to play. Regulatory regimes can “nudge” MNCs towards investing in Sustainable Development.<sup>122</sup> The UN Sustainable Development Goals are one effort to create an international framework capable of addressing critical global challenges.

#### VI. THE SDGs, NGOs, AND “THE FUTURE WE WANT”:<sup>123</sup> A NEW NORMATIVE FRAMEWORK?

The SDGs are a remarkable exercise in optimism. They propose to “end . . . poverty in all its forms everywhere,” promote concerted action on climate change at all levels of society, provide “food security and adequate nutrition for all”, and “achieve peaceful and inclusive societies, rule of law, [and] effective and capable institutions.”<sup>124</sup> The SDGs are the culmination of a decades-long process that includes Agenda 21 (1992), the Global Compact (1999), the Millennium Development Goals (2000), Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights (2003), and Rio+20 (2012). Authors of the Zero-draft explicitly reaffirm these principles.<sup>125</sup>

<sup>119</sup> DALBERG GLOBAL DEV. ADVISORS, *IMPACT INVESTING IN WEST AFRICA* (2011) (on file with author).

<sup>120</sup> See *The Companies Act*, Ministry of Corporate Affairs, <http://www.mca.gov.in/MinistryV2/companiesact.html> (last visited May 16, 2015); See also *The Companies Act*, No. 18 of 2013, Gazette of India, part II, section 1 (Aug. 30, 2013), vol. 27, available at <http://www.mca.gov.in/Ministry/pdf/CompaniesAct2013.pdf>.

<sup>121</sup> *Id.*

<sup>122</sup> See generally RICHARD H. THALER & CASS R. SUNSTEIN, *NUDGE: IMPROVING DECISIONS ABOUT HEALTH, WEALTH, AND HAPPINESS* (2008).

<sup>123</sup> “The future we want” was one catchphrase that survived the Rio 2012 conference. 2 *Introduction and Proposed Goals and Targets on Sustainable Development for the Post2015 Development Agenda*, UNITED NATIONS DEP’T OF ECON. & SOC. AFF. (June 2, 2014), <https://sustainabledevelopment.un.org/content/documents/4528zero-draft120WG.pdf>.

<sup>124</sup> *Id.* at 3.

<sup>125</sup> *Id.* at 2–3.

Observers are understandably skeptical that the UN, member states, and civil-society partners will realize these goals—particularly since the target deadline is just fifteen years away. However, interpreting the Post-2015 Agenda in this way ignores the systemic impact ratification would have: whether or not the SDGs meet each of their proposed targets (which they certainly will not), they provide a coherent framework for international human rights law that assimilates the incremental advances made over more than twenty years. And while the SDGs are “guided by the purposes and principles of the Charter of the UN, with full respect for international law and its principles,” they also move from proscribed behaviors to prescriptions for a “future we want.”<sup>126</sup> This may prove vitally important, as the international community seeks to mobilize corporations, which have not historically been the target of international law.<sup>127</sup>

The ambitious scope of the SDGs is, in this view, not a liability but an advantage. Not only do they encompass existing principles of international law which define the obligations of nation-state actors, but they cohere with parallel frameworks that target the private sector.<sup>128</sup> For those who hope that the SDGs will eventually provide the foundation for soft-law that can be used to govern the practices of MNCs, this is some cause for cautious optimism.<sup>129</sup> The debate about Sustainable Development and Corporate Social Responsibility may also be contributing to a climate where good corporate practices are strongly normative.

Nonprofits and grassroots advocacy groups are reinforcing the work of intergovernmental bodies in making Sustainable Development normative.<sup>130</sup> David Weissbrodt notes that NGOs like OXFAM, Amnesty International, and Human Rights Watch are playing an important role in shaping public opinion, and encouraging for-profit organizations to invest responsibly,<sup>131</sup> and Larry Catá Backer argues that there is some hope that global NGOs will “match the power of multinationals in the competition for the allegiance of consumers and investors

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<sup>126</sup> *Id.* at 1–2.

<sup>127</sup> See Weissbrodt, *supra* note 110, at 55; See Backer, *supra* note 114 at 505; See JENNIFER ZERK, MULTINATIONALS AND CORPORATE SOCIAL RESPONSIBILITY: LIMITATIONS AND OPPORTUNITIES IN INTERNATIONAL LAW 83 (2006).

<sup>128</sup> See *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A Renewed EU Strategy 2011-14 for Corporate Social Responsibility*, at 6, COM (2011) 681 final (Oct. 25, 2011); see also United Nations Human Rights Office of the High Commissioner, *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework*, U.N. Doc. HR/PUB/11/04 (2011).

<sup>129</sup> See Thomas McNerney, “Putting Regulation Before Responsibility: Towards Binding Norms of Corporate Social Responsibility,” 40 CORNELL INT’L L.J. 171 (2007).

<sup>130</sup> The organization Go Fossil Free, for example, has won commitments from hundreds of cities, colleges and universities, and religious organizations promising to divest from carbon-intensive industries. See *Divestment Commitments*, FOSSIL FREE, <http://gofossilfree.org/commitments/> (last visited May 16, 2015).

<sup>131</sup> See Weissbrodt, *supra* note 110.

through certification programs and other private contractual mechanisms.”<sup>132</sup> Beyond IGOs and NGOs, Investment and Pension Funds managing trillions of dollars are also making an impact, leveraging financial resources to force corporations to make CSR a core part of business practices.<sup>133</sup> These are all encouraging developments, particularly when compared to prevailing conditions just twenty years past. It remains to be seen whether these largely volunteer efforts are commensurate with the extraordinary challenges facing the global community, or whether a more robust regulatory framework is needed to create the future imagined by authors of the SDGs.

## VII. CONCLUSION

The present article argues that the world’s most powerful actors—the Group of 7 and the BRICS, e.g.—have disincentives to make the costly investments required to address critical global challenges.<sup>134</sup> Repeated failures to achieve consensus between developing and developed nations to address climate mitigation and adaptation is just the most extreme example of this problem.<sup>135</sup> If nation-state actors are unable to lead in what Ian Bremmer calls the G-Zero world, who will?

This article suggests that MNCs have the capacity to make a transformative impact on critical issues not because of technical capacity, agility, entrepreneurship, or supply-chains, as advocates like Jeffrey Skoll and David Cameron claim, but because they have incentives that dispose them to more, rather than less, global engagement. Investing in sustainable development by making CSR a core part of corporate strategy can build civil-society partnerships in developing economies; improve a company’s reputation; enhance shareholder value; and increase market penetration. This article does not endorse a market-based approach to the “tragedy of the commons.”<sup>136</sup> It does argue, however, that private sector leadership in the campaign to address issues like climate change, economic inequality, and the disenfranchisement of women and girls is preferable to no leadership at all.<sup>137</sup>

<sup>132</sup> See Backer, *supra* note 114.

<sup>133</sup> See DNV GL, TOMORROW’S VALUE RATING 2014 GLOBAL REPORT (2014). Ratings agencies like DNV GL use indexes of corporate, social, and environmental practices to encourage MNCs to “improve” their behavior.

<sup>134</sup> See BREMMER, *supra* note 10.

<sup>135</sup> See Jasmin Kominek, *Global Climate Policy Reinforces Local Social Path-Dependent Processes: More Conflict in the World?*, in CLIMATE CHANGE, HUMAN SECURITY, AND VIOLENT CONFLICT: CHALLENGES FOR SOCIETAL STABILITY 133 (Jürgen Scheffran et al. eds., 2012).

<sup>136</sup> See Garrett Hardin, *The Tragedy of the Commons*, 162 SCIENCE 1243 (1968).

<sup>137</sup> It is also worth remembering that the world’s 500 largest corporations account for more than 70% of global trade. In 2010, the 15 largest US corporations had a combined revenue of more than USD \$2.5 trillion dollars. Germany’s GDP for the fiscal year ending 2014 was USD \$ 3.5 trillion.

MNCs are already investing in sustainable development, and this article shows that the “market” is playing a role in shaping corporate behavior. However, CSR is on its way to becoming Standard Operating Procedure not just because of market mechanisms, but because elected officials from Zambia to India are demanding that corporations invest in local economies, infrastructure, and indigenous populations if they hope to capture market-share at the coveted BoP.<sup>138</sup> The state, in other words, is essential to ensuring that MNCs act in socially responsible ways.

Initiatives sponsored by intergovernmental organizations are also creating a framework to enhance the positive impact of MNCs, and the SDGs go some way in making CSR normative for for-profit organizations operating on a global scale. Critics from both sides of the political spectrum are right to argue that the SDGs are unlikely to be achieved: they are extraordinarily costly, they are politically contentious, and they mask genuine social, cultural, religious, and political differences behind widely agreed upon principles. The present article has argued, however, that interpreting the SDGs in this way ignores the true merits of the UN initiative. If ratified by the General Assembly in late 2015, the SDGs will confer genuine obligations to realize the “future we want” on diverse public, private, and civil-society stakeholders. Taken together with the European Commission “Strategy for CSR” and the UN “Principles on Business and Human Rights,” the SDGs are part of trend that brings the private-sector under the purview of international law. This has long been a dangerous lacunae in global governance.

Ultimately, the question is whether the trend towards sustainable development, principled on market mechanisms and voluntary commitments, can eradicate poverty, slow global warming, empower women, and create a more peaceful global community. The answer is, almost certainly, no. However, as this article suggested at the outset, some hope is better than none.

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<sup>138</sup> See The Companies Act, No. 18 of 2013, INDIA CODE (2013); Claire Burgess, *Knowing Is Not Enough: Corporate Social Responsibility and Empowerment in the Zambia Copperbelt*, CONSULTANCY AFRICA INTELLIGENCE (Apr. 16, 2014), [http://www.consultancyafrica.com/index.php?option=com\\_content&view=article&id=1674:knowing-is-not-enough-corporate-social-responsibility-and-empowerment-in-the-zambia-copperbelt-&catid=57:africa-watch-discussion-papers&Itemid=263](http://www.consultancyafrica.com/index.php?option=com_content&view=article&id=1674:knowing-is-not-enough-corporate-social-responsibility-and-empowerment-in-the-zambia-copperbelt-&catid=57:africa-watch-discussion-papers&Itemid=263).